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October 8, 2024

Our ref.: 15-19/mf

**Via ECF**

Honorable Robert W. Lehrburger  
 Magistrate Judge, Southern District of New York  
 United States Courthouse  
 500 Pearl Street  
 New York, New York 10007

**Re: In re Hapag-Lloyd Aktiengesellschaft a/k/a Hapag-Lloyd AG,  
 as Owners and Operators of the M/V YANTIAN EXPRESS  
19-cv-5731 (GHW)(RWL)**

Dear Judge Lehrburger:

We represent Petitioner Hapag-Lloyd AG (“Hapag” or “Petitioner”) as owner and operator of the M/V Yantian Express (the “Vessel”), and we are writing to provide Your Honor with a further positive update regarding developments concerning settlement discussions as to affirmative claims made against Hapag in the NY Limitation and to respectfully request a further adjournment of discovery for ninety (90) days.

The time the Court has allowed the parties thus far to continue settlement discussion has been very productive as more fully described herein.

**Settlements to Date**

As per the Court’s guidance, settlement of the claims presented by Claimant Pepsico/Gatorde and the delayed delivery claims of Claimants MGF and VF Jeanswear/Kontoor have been finalized.

**Agree-to-Recommend Settlements of Cargo Claims**

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As previously reported, the vast majority of cargo claims asserted in the NY Limitation are held by the Hill Rivkins Claimants,<sup>1</sup> for which the parties have reached an agree-to-recommend settlement contingent upon the final General Average adjustment to be issued by Richards Hogg Lindley (“RHL”).<sup>2</sup> In furtherance of settlement efforts, we have met with counsel for Hill Rivkins over the past 90 days and have also been in very close contact for the purpose of reviewing and adjusting thousands of claims they have asserted in the NY Limitation on an agree to recommend basis contingent upon the final General Average adjustment to be issued by RHL in London. We and Hill Rivkins continue to review and adjust claims those claims asserted by Rivkins which, as Your Honor can appreciate, is a tedious endeavor.

Separately, and as more positive news, we were advised by RHL in September 2024 that a draft General Average adjustment, excluding salvage, has been prepared and RHL is conducting an internal review before sharing the draft. While we understand that RHL is still in the process of collecting salvage payments, which is a necessary step before the adjustment can be finalized, RHL intends to share the draft adjustment (excluding salvage) prior to finalizing salvage amounts owed. As we previously advised, RHL’s calculations and figures are important and relevant to the NY Limitation since Claimants seek indemnity from Hapag as to amounts to be paid thereunder. Thus, the settlement of claims asserted in the NY Limitation also take into consideration an agreed to recommend percentage/contribution by Hapag as to actual amounts due by each Claimant under the final adjustment to be issued by RHL. Please note that RHL serves in a fiduciary capacity for the entire General Average community (including vessel Owner, cargo interests, salvors, etc.) and act therefore in an independent capacity over whom we have no control.

Finally, we are pleased to also report that since our last update we have now reached an agree to recommend settlement with all remaining Claimants in the NY Limitation as to (i) cargo claims and (ii) General Average and salvage contributions. Similar to the Hill Rivkins Claimants, the exact amounts due remain under active review, discussion, and consideration pending RHL’s final calculations.

### Scheduling

Based upon the above, the parties respectfully request a further 90-day extension of the current deadlines as follows:

#### Court’s Case Management Plan (Dkt. 143)(identified by Paragraph number)

- ¶8a - All fact discovery: January 6, 2025
- ¶8c - Requests for production/interrogatories: December 19, 2024
- ¶8d - All fact depositions: January 6, 2025

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<sup>1</sup> Hill Rivkins represents about 45% of all claims asserted in the NY proceedings (roughly 3,500 claims involving over 1,700 ocean containers).

<sup>2</sup> The final adjustment will set forth amounts due and owing for General Average and salvage by each interest in the General Average community (inclusive of cargo interests in the NY Limitation).

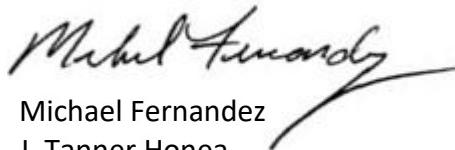
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- ¶8e - Requests to admit: December 19, 2024
- ¶9c - All expert discovery: July 3, 2025
- ¶9d - Meet and confer regarding expert disclosures: December 4, 2024
- ¶12 - Notify court of intent to file summary judgment motion: July 3, 2025
- ¶13 – Submission of Joint Proposed Pre-Trial Order: August 1, 2025, or 30 days after the Court’s decision on any summary judgment motions pending at that time.

This extension would also extend the NVOCCs time to move to dismiss, and, as to those NVOCCs that have not yet answered, to answer or otherwise move, from October 10, 2024 to January 8, 2025.

All parties agree to this request for additional time, or do not object, and we thank Your Honor for your continued consideration and patience in regard to this further request.

Respectfully submitted,



Michael Fernandez  
J. Tanner Honea  
Michael J. Dehart

Cc: All counsel of record via ECF

SO ORDERED:

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Hon. Robert W. Lehrburger  
United States Magistrate Judge